Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 1, 1999.

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide,, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds.

Dated: September 7, 1999.

Carol M. Browner,

Administrator.

40 CFR part 51 is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7410, 7414, 7421, 7470–7479, 7491, 7492, 7601, 7602.

Subpart G—Control Strategy [Amended]

2. Section 51.121 is amended to revise paragraphs (e)(2) and (e)(3)(iii) to read as follows:

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen.

* * * * *

(e) * * *

(2) The State-by-State amounts of the NO_X budget, expressed in tons, are as follows:

State	Budget
Alabama	172,037
Connecticut	44,993
Delaware	22,789
District of Columbia	6,672
Georgia	189,634
Illinois	274,799
Indiana	238,970
Kentucky	155,619
Maryland	81,625
Massachusetts	83,396
Michigan	224,582
Missouri	128,146
New Jersey	100,133
New York	240,123
North Carolina	168,373
Ohio	250,930
Pennsylvania	257,441
Rhode Island	9,798
South Carolina	124,211
Tennessee	197,664
Virginia	185,027
West Virginia	91,216
Wisconsin	136,172
Total	3,384,350

(3) * * *

(iii) The State-by-State amounts of the compliance supplement pool are as follows:

State	Compliance supplement pool (tons of NO_X)
Alabama	11,350
Connecticut	473
Delaware	127
District of Columbia	0
Georgia	11,179
Illinois	17,586
Indiana	20,390
Kentucky	14,495
Maryland	3,840
Massachusetts	473
Michigan	11,103
Missouri	10,783
New Jersey	1,479
New York	2,370
North Carolina	10,544
Ohio	22,320
Pennsylvania	15,662
Rhode Island	15
South Carolina	5,122
Tennessee	10,557
Virginia	6,914
West Virginia	16,410
Wisconsin	6,808
Total	200,000

* * * * *

[FR Doc. 99–23914 Filed 9–14–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–6432–1]

Regulation of Fuel and Fuel Additives: Extension of California Enforcement Exemptions for Reformulated Gasoline Beyond December 31, 1999

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: With this direct final rule the EPA continues to exempt refiners, importers, and blenders of gasoline subject to the State of California's reformulated gasoline regulations from certain enforcement provisions in the Federal reformulated gasoline regulations. Current exemptions applicable under the Federal Phase I reformulated gasoline program will expire after December 31, 1999, when the Federal Phase II reformulated gasoline program begins. Today's direct final rule extends the California enforcement exemptions beyond that date. The Agency is publishing this action as a direct final rule because it does not expect it to be controversial. An accompanying notice of proposed rulemaking is being published in today's **Federal Register**.

DATES: This final rule is effective on January 1, 2000 unless adverse or critical comments are received by October 15, 1999. If adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Any person wishing to submit comments should send them (in duplicate, if possible) to the docket address listed and to Anne Pastorkovich, Attorney/Advisor, U.S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, SW (6406J), Washington, D.C. 20460. Materials relevant to this direct final rule have been placed in docket [A–99–04] located at U.S. Environmental Protection Agency, Air Docket Section, Room M–1500, 401 M Street, SW, Washington, D.C. 20460. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., Monday through Friday, except on Federal holidays. A reasonable fee may be charged for photocopying services.

FOR FURTHER INFORMATION CONTACT: For further information about this direct final rule, contact Anne Pastorkovich, Attorney/Advisor, Fuels & Energy Division, at (202) 564–8987. To notify EPA of an intent to submit an adverse comment or public hearing request, contact Anne Pastorkovich, (202) 564–8987.

SUPPLEMENTARY INFORMATION: The remainder of this direct final rule is organized in the following sections:

I. Background
  A. Regulated Entities
  B. Current Status and Basis for California Exemptions
II. Applicability of Exemptions Beginning in 2000 (Description of This Rule)
III. Administrative Designation and Regulatory Analysis

HeinOnline -- 64 Fed. Reg. 49992 1999

A. Executive Order 12866
B. Executive Order 12875: Enhancing Intergovernmental Partnerships
C. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments
D. Regulatory Flexibility
E. Paperwork Reduction Act
F. Unfunded Mandates Reform Act
G. Submission to Congress and the General Accounting Office
H. Children's Health Protection
I. National Technology Transfer and Advancement Act of 1995 (NTTAA)
J. Statutory Authority

I. Background

A. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Refiners, importers, and oxygenate blenders of California gasoline.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether an entity is regulated by this action, one should carefully examine the RFG provisions at 40 CFR Part 80, particularly § 80.81 dealing specifically with California gasoline. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Current Status and Basis for California Exemptions

Section 211(k) of the Federal Clean Air Act (the Act) directs the EPA to establish requirements for reformulated gasoline (RFG) to be used in specified ozone nonattainment areas, as well as "anti-dumping" requirements for conventional gasoline used in the rest of the country, beginning in January 1995. The areas covered by the Federal RFG program in California are Los Angeles, San Diego, and Sacramento.[1] The Act requires EPA to reduce the emissions of ozone forming volatile organic compounds (VOCs) and toxic air pollutants from motor vehicles through the RFG program. It also requires that there be no increase in the emission of oxides of nitrogen (NO_X) as a result of the RFG program. Finally, RFG must meet certain content standards for oxygen, benzene and heavy metals.

The RFG program is implemented in two phases. The Phase II program, which will begin on January 1, 2000, is similar to the Phase I program, but will require even greater emissions benefits. The relevant regulations for RFG and conventional gasoline may be found at 40 CFR Part 80, Subparts D, E, and F.[2]

On September 18, 1992, the California Air Resources Board (CARB) adopted regulations requiring reformulation of California "Phase 2" gasoline.[3] The CARB regulations established a comprehensive set of gasoline specifications designed to achieve reductions in emissions of VOCs, NO_X, carbon monoxide (CO), sulfur dioxide, and toxic air pollutants from gasoline-fueled vehicles. The CARB regulations set standards for eight gasoline parameters—sulfur, benzene, olefins, aromatic hydrocarbons, oxygen, Reid vapor pressure (RVP), and distillation temperatures for the 50 percent and 90 percent evaporation points (T–50 and T–90, respectively). These regulations became effective on March 1, 1996 for all gasoline in the California distribution network (except for gasoline being exported from California). The CARB regulations also provide for the production and sale of alternative gasoline formulations, with certification under the CARB program based on a predictive model or on vehicle emission testing.

During the Federal RFG rulemaking, and in response to comments by California refiners, we concluded (1) that VOC and toxics emission reductions resulting from the California Phase 2 standards would be equal to or greater than the Federal Phase I RFG standards (applicable from January 1, 1995 through December 31, 1999), (2) that the content standards for oxygen and benzene under California Phase 2 would be equivalent in practice to the Federal Phase I content standards,[4] and (3) that the CARB's compliance and enforcement program was designed to be sufficiently rigorous to ensure that Federal Phase I requirements would be met.[5] Consequently, while the Federal RFG and conventional gasoline standards continue to apply in California, refiners, importers, and oxygenate blenders of gasoline sold in California (referred to collectively as "California refiners") are exempt in most cases from various enforcement-related provisions, including the following:

Requirement exempted	Citation at 40 CFR § 80.xx
Compliance Surveys[6]	80.68
Independent Sampling & Testing	80.65(f).
Designation of Gasoline	80.65(d).
Marking of Conventional Gasoline	80.65(g) and 80.82.
Downstream Oxygenate Blending	80.69.
Recordkeeping	80.74 and 80.104.
Reporting	80.75 and 80.105.
Product Transfer Documents	80.77.
Parameter Value Reconciliation Requirements	80.65(e)(2).
Reformulated Gasoline and Reformulated Gasoline Blendstock for Oxygenate Blending (RBOB) Compliance Requirements.	80.65(c).
Annual Compliance Audit Requirements	80.65(h).

[1] *See* 40 CFR § 80.70 for a complete list of covered areas.

[2] See 59 FR 7812 (February 16, 1994), as amended at 59 FR 36964 (July 20, 1994); 60 FR 2699 (January 11, 1995); 60 FR 35491 (July 10, 1995); 60 FR 65574 (December 20, 1995); and 62 FR 68196 (December 31, 1997).

[3] See Title 13, California Code of Regulations §§ 2250–2272 (as last amended December 11, 1998). California has amended its regulations since they were first promulgated in September, 1992. The most recent amendments, adopted December 11, 1998, raise the oxygen "cap" limit for California gasoline from 2.7 weight % to 3.5 weight %. As discussed below, this direct final rule is based on the current state of California's Phase 2 gasoline program, including the December 11, 1998 amendments.

[4] As is discussed in the section entitled "Oxygen Standard", below, this is not now the case.

[5] See 59 FR 7758, 7759 (February 16, 1994) and 40 CFR § 80.81.

[6] 40 CFR § 80.81(e)(2) was amended to include a limited oxygen survey provision. *See* "Fuels and Fuel Additives; Amendments to the Enforcement Exemptions for California Gasoline Refiners—Final Rule," 63 FR 34818 (June 26, 1998).

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Requirement exempted	Citation at 40 CFR § 80.xx
Compliance attest Engagement Requirements	subpart F.

California refiners are not exempt from these Federal enforcement requirements with regard to gasoline that is delivered for use outside California, because the California Phase 2 standards and the CARB enforcement program do not cover RFG exported from California. EPA has made reasonable allowances to minimize complications for gasoline exported from California, including permitting the use of California test methods for conventional gasoline that is produced in California for sale outside the state.[7]

II. Description of the Direct Final Rule

The enforcement exemptions which expire on December 31, 1999 were based on a comparison of California Phase 2 gasoline and Federal Phase I RFG. The enforcement exemptions, which were included in the final RFG rule (see fn. 5), were only applicable during the Phase I RFG program. It would have been premature for EPA to have made an equivalency determination comparing California Phase 2 and Federal Phase II gasolines upon publication of the final RFG rule. However, we indicated in the rulemaking that, if an appropriate and timely demonstration was made in the future, showing that California Phase 2 gasoline could be expected to provide emission benefits equivalent to Federal Phase II RFG, then we might extend the enforcement exemptions beyond December 31, 1999. For the reasons discussed below, we believe that California Phase 2 gasoline provides emissions benefits equivalent to Federal Phase II RFG, and that it is appropriate for us to extend the California enforcement exemptions to Federal Phase II RFG. Specifically, the Agency believes that:

(1) VOC, toxics, and NO_X emission reductions resulting from the California Phase 2 standards would be equal to or greater than the reductions from the Federal Phase II RFG standards,

(2) The content standards for oxygen and benzene under California Phase 2 would be equivalent in practice to the Federal Phase II content standards, and

(3) The CARB's compliance and enforcement program is designed to be sufficiently rigorous.

We have received a detailed comparison of California Phase 2 and Federal Phase II blends, entitled, "Comparing the Equivalency of California and Federal Reformulated Gasoline," from the Western States Petroleum Association (hereafter referred to as "the WSPA analysis"). A copy of the WSPA analysis, and an EPA staff memorandum describing the Agency's evaluation of the WSPA analysis, has been placed in public docket at the location listed in the **ADDRESSES** section of this notice [8].

The WSPA analysis evaluated the performance of the California program (1) by comparing the average performance of actual California RFG to the averaged parameter limits of federal RFG, and (2) by analyzing the performance of a set of "virtual fuels" using computer modeling. While the average fuel performance analysis establishes that the overall air quality objective of the federal RFG program will be met, the virtual fuels analysis provides assurances that there will be no temporal spikes in the emission of ozone forming VOCs.

The WSPA analysis utilized data from two separate surveys of actual California gasoline to compare the emissions performance of California gasoline with the EPA Phase II complex model averaging standards. *See* 40 CFR § 80.41(f). One survey was prepared by the California Energy Commission (CEC).[9] The other survey was prepared by the American Petroleum Institute/National Petroleum Refiners Association (API/NPRA).[10] Both surveys collected data on the properties of RFG actually produced by California refiners in an effort to evaluate the emissions performance of actual, in use California gasoline. The API/NPRA and CEC surveys represented about 85% and 100% of the RFG produced in California, respectively. The surveys each occurred over periods of about four months during the summertime, and were weighted by production volume. Producers were not aware that the surveys were being conducted.

Both surveys support the conclusion that average fuel property values and average emissions reductions of in-use California gasolines comply with Federal Phase II averaged standards. Additionally, the two surveys, performed one year apart, were remarkably consistent. The results of the surveys are shown in the following table: [11]

Properties	Federal phase II averaged standards	1990 Baseline fuel	California survey results	
			API–96	CEC–97
Oxygen (wt%)	>=2.1 average, 1.5 per gal. min	0	2.1	2.1
SULFUR (ppm)		339	20	19
RVP (psi)		8.7	6.8	6.8
E200 (%)		41	51.3	50.5
E300 (%)		83	88.8	88.4
AROMATICS (vol%)		32	23.0	23.0
OLEFINS (vol%)		9.2	3.9	4.1
BENZENE (vol%)	<=0.95 average, 1.3 per gal. max.	1.53	0.55	0.57

[7] *See* 40 CFR 80.81(h)(1).

[8] The WSPA analysis and an EPA staff memorandum entitled "Equivalency Determination of California and Federal Reformulated Gasoline," (March 8, 1999) have been placed in docket A–99–04.

[9] Final Report, 1996 American Petroleum Institute/National Petroleum Refiners Association Survey of Refining Operations and Product Quality (July, 1996).

[10] California Energy Commission, Supply and Cost of Alternatives to MTBE in Gasoline—Technical Appendices, Refinery Modeling—Task 2 Calibration of Refinery Model, Table 5.3.

[11] WSPA analysis, at 7.

HeinOnline -- 64 Fed. Reg. 49994 1999

Properties	Federal phase II averaged standards	1990 Baseline fuel	California survey results	
			API–96	CEC–97
Phase II Complex Model Absolute emissions Calculations		Absolute emissions (milligrams/mile)		
Exhaust VOC		907.0	733.0	734.2
Nonexhaust VOC		559.3	294.1	294.1
Total VOC		1466.3	1027.2	1028.4
Exhaust benzene		53.5	28.8	28.9
Nonexhaust benzene		6.2	1.3	1.4
Acetaldehyde		4.4	3.6	3.6
Formaldehyde		9.7	11.8	11.8
Butadiene		9.4	6.4	6.5
POM		3.0	2.5	2.5
Total exhaust toxics		80.1	53.0	53.2
Total toxics		86.3	54.3	54.6
NO_X		1340.0	1144.5	1143.2
Phase II Complex Model Reductions from 1990 Baseline		Percent change from baseline emissions		
Total VOC	>=29.0% average, 25.0% per gal. min.	−29.9	−29.9	
Total toxics	21.5% average		−37.1	−36.8
NO_X	6.8% average		−14.6	−14.7

The WSPA analysis also compares the emissions performance of the survey average in-use fuel with the emissions performance of fuels that meet California's "regulatory recipe". The regulatory recipe specifies limits for various emission-related fuel parameters (e.g. sulfur content, aromatics content).

Certain of these parameters in the regulatory recipe have two sets of limits; a "flat" (per gallon) limit and an average limit with a cap. A California refiner may choose, on a property by property basis, to produce a blend that complies with a flat or an average (with cap) regulatory recipe limit. However, a refiner may produce a blend with parameters that differ from the regulatory recipe specifications if they can demonstrate, using the predictive model, that the emissions performance of their blend is comparable. In order to use the predictive model to compare the emissions performance of its blend to the performance of the regulatory recipe, refiners must decide whether certain parameters in their blend will be averaged or flat-limited.

The WSPA analysis compares the survey results to the regulatory recipe by plugging the average survey data into the predictive model and generating emissions numbers. These numbers are then compared against an all-average and all-flat emissions baseline. The results demonstrate that the emissions performance of in-use gasoline approximates the emissions performance of a fuel with average regulatory recipe limits. Therefore, it is reasonable to use the average, rather than the flat, regulatory recipe limits to determine which of the computer-generated virtual fuels meet California standards under the predictive model. This virtual fuels analysis, discussed later, demonstrates compliance of California fuel with the Federal VOC per-gallon minimum performance requirement.

Finally, the WSPA analysis demonstrates that the fuels represented by the two surveys meet the average performance requirements of the federal RFG program. To make this determination the WSPA analysis evaluates the averaged fuels from the two surveys using the federal Complex Model.[12]

The WSPA analysis also examined a computer-generated set of emissions data to evaluate the performance of a large number of possible California gasoline blends against the Federal per-gallon minimum reduction requirements for VOCs. This set of virtual fuels consisted of fuels whose properties vary discretely within ranges constrained by California or Federal regulations. Specifically, the virtual fuels analysis defined the properties of the virtual fuels using the appropriate limits of California Phase 2—for RVP, sulfur, aromatics, olefins, T50, T90, and benzene, the upper and lower limits are defined by California's regulations. For oxygen, the lower limit is defined by the Federal RFG program [13] and the upper limit is defined by the California regulations.

For VOC compliance, the virtual fuels analysis looked at possible combinations of fuel properties within the limits of what could be certified under the California predictive model. Although the virtual fuels analysis does not reflect each and every possible fuel formulation, the discrete properties chosen accurately approximate the full range of possible, "real world" fuels. These virtual fuel formulations were then submitted to the EPA's complex model. In all there were 18,048 virtual fuels that met the California standards. Of these fuels, all met the 25% minimum Federal Phase II VOC reduction requirement.

As discussed in greater detail in the staff paper, the virtual fuels analysis supports the conclusion that any possible "real world" fuel will comply with the Federal Phase II complex model minimum VOC reduction requirement.

We are satisfied that the CARB enforcement program, which employs several full-time inspectors and a mobile laboratory facility, and which conducts year round inspections of retail facilities, terminals, and refineries, is designed to be sufficiently stringent to ensure the emissions benefits and content requirements of the program are met.

In the absence of the enforcement exemptions at 40 CFR § 80.81, California refiners would be required to comply with duplicative enforcement requirements at a significant added cost. We believe that California Phase 2 gasoline, as required by the current regulations (see footnote 3), and as

[12] *Id.* at 9.

[13] The limited oxygen survey option was added to 40 CFR § 80.81 (e)(2)(ii) to ensure that compliance with a 2.0 wt % standard is met in Federally covered areas, as defined by § 80.70. Since for an averaging party, the minimum oxygen content of any gallon of gasoline is 1.5 wt % (with all production over the compliance period meeting 2.1 wt%, on average), the appropriate minimum oxygen content for analysis purposes is 1.5 wt %.

HeinOnline -- 64 Fed. Reg. 49995 1999

described in this analysis, will achieve VOC, toxic and NO_X emission reductions that are equal to or greater than those achieved by Federal Phase II gasoline, and will comply with the oxygen and benzene content requirements of the Federal program. We also believe that the CARB enforcement program is sufficiently stringent to ensure that the expected benefits will continue to be met. Therefore, we are proposing to extend the California enforcement exemptions at 40 CFR § 80.81 beyond December 31, 1999.

On March 26, 1999, California Governor Gray Davis issued Executive Order D–5–99, which directed that methyl tertiary butyl ether (MTBE) be phased out of gasoline as soon as possible. Because, California refiners must still provide gasoline in the state that complies with the federal oxygen content requirement, the appropriateness of extending the enforcement exemptions is preserved. A copy of the executive order has been placed in the public docket at the location indicated in the **ADDRESSES** section of this notice.

On April 12, 1999, Governor Davis submitted a letter to EPA Administrator Carol Browner, requesting that EPA grant a waiver from the Federal 2.0 weight % oxygen requirement for all California areas covered by the Federal RFG program. The governor's request is currently being evaluated by EPA, but is outside the scope of today's direct final rule. Today's action, in finding that the emission reduction benefits of California gasoline are equivalent to Federal Phase II RFG based on a comparison of current California Phase 2 gasoline and Federal Phase II RFG, includes an analysis demonstrating that such California gasoline will comply with the Federal content standards, including the 2.0 weight % oxygen standard. If California amends its current reformulated gasoline regulations (or issues new regulations), EPA will re-examine these regulations to determine whether enforcement exemptions continue to be appropriate.

III. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a Serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a significant regulatory action under the terms of Executive Order 12866 and is therefore not subject to OMB review. The Agency has determined that this regulation would result in none of the economic effects set forth in Section 1 of the Order because it does not impose any mandatory obligations on the regulated community beyond those specified in the current regulations.

B. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Today's direct final rule does not create a mandate for any tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this direct final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

This action does not add any new requirements involving the collection of information as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final RFG/anti-dumping rulemaking (See 59 FR 7716, February 16, 1994) and has assigned OMB control number 2060–0277 (EPA ICR No. 1951.08).

Burden means the total time, effort, or financial resources expended by persons

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to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's direct final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Today's direct final rule extends the existing exemption for California gasoline from many of the regulatory compliance requirements of the RFG program, relieving potentially duplicative obligations.

G. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

H. Executive Order 13045: Children's Health Protection

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Statutory Authority

Sections 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, California exemptions, Gasoline, Motor vehicle pollution, Reformulated gasoline.

Dated: August 27, 1999.

Carol M. Browner,

Administrator.

For the reasons described in the preamble, part 80 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 80 continues to read as follows:

Authority: Secs.114, 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545, and 7601(a)).

§ 80.81 [Amended]

2. Section 80.81 is amended by removing paragraph (i).

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